IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/08/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION.NO.1503 OF 2003
and
WPMP.NO.1878 OF 2003

1. S.K. Mathena
D/o. Kader

2. M. Deivamani,
D/o. S. Mani

3. K. Thilagam,
D/o. Kandappan

4. S. Manjula
D/o. Sidheswaran

5. B.G. Sumathi,
D/o. Govindha Chetty

6. A. Umamageswari,
D/o. Ayyasamy

7. K. Valarnila,
D/o. Kumaravel

8. A. Moorthy,
S/o. Paani Sammal

9. K. Sengodan,
S/o. Karuppanna Nadar

10. G. Vivekanandan,
S/o. Govinda Chetty

11. G. Mariyappan,
S/o. Ganapathy

12. S. Kalayanaraman,
S/o. Srinivasan

13. A. Jayasankar,

S/o. Ambikapathi

14. S. Gunasekar,
S/o. Subramanian

15. K.R. Baskaran,
S/o. Ramadass

16. M. Rajasekaran,
S/o. Murugaiyan

17. V. Kalyanasundaram,
S/o. Vinayagam

18. A.M. Elumalai,
S/o. Muniyan

19. C. Chinnadurai,
S/o. Chinnathambi

20. R. Lawrance Feklix Thomas,
S/o. Rayappan

21. H. Siraj
S/o. Hussain

22. K. Saravanan,
S/o. Kamaraj

23. V. Vijayakumar,
S/o. Vaithiyalingam

24. A. Palani,
S/o. Ammavasai

25. R. Kanagaraj,
S/o. Ramalingam

26. N.P. Kumar,
S/o. Perumal
27. S. Senthil Velavan,
S/o. Madappan

28. A. Sagayaraj,
S/o. Arulanantham

29. P. Ramachandran,
S/o. Parthasarathy

30. M. Ravichandiran,
S/o. Murugesan

31. K. Chandran
S/o. Kandi Gounder

32. C. Ananthan,
S/o. Cinnamuthu

33. A. Lila,
D/o. Syed Ameer

34. R. Tamilarasi,
D/o. Rangasami

35. E. Vennila,
D/o. Edumann

36. J. Umamaheswari,
M/o. Mallika .. Petitioners

-Vs-

1. The State of Tamil Nadu,
rep. by its Secretary to Govt.,
Education Department,
Fort St. George, Chennai 9.

2. The Director,
Teacher Education Research and
Training, College Road,
Chennai 6. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.K.M. Vijayan
Senior Counsel for
Mr.A. Chandrasekar

For Respondents 1-2: Mr.P.S. Sivashanmuga Sundaram
Addl. Govt. Pleader

:J U D G M E N T

Prayer in this writ petition is to issue Certiorarified Mandamus to quash the order dated 26.12.2002 in Na.Ka.17837/C4/2001 issued by the second respondent and direct the respondents to admit the petitioners in Diploma Teacher Education in the respective Government District Institute of Educational and Training.

2. To appreciate the contentions raised by the parties, it is necessary to notice the chequered events. Royal Teacher Training Institute, Krishnagiri was established in 1989. Since there was some disputes regarding recognition, W.P.No.14756 of 1991 had been filed and by virtue of interim order in WMP.No.22140 of 1991, temporary recognition was granted to such institute with effect from 3.4.1992. Subsequently, however, order dated 22.9.1992 was issued indicating that temporary recognition was effective from 14.6.1989. This recognition, however, was shortlived inasmuch as the recognition granted to this institute as well as many other teacher training institute was quashed pursuant to the order of the High Court in WP.No.9494 of 1992. To alleviate the difficulties faced by the students who had studied in such institutes, which were subsequently de-recognised, the Government issued G.O.Ms.No.685 dated 16.7.1993 stipulating that the students shall undergo a refresher course. The above order of the Government to extricate the unfortunate students also proved futile as the said order was quashed by the High Court in W.P.No.15463 of 1993 and other connected matters.

3. Long thereafter the Government again thought of helping the unfortunate students who had undergone training in such de-recognised institutes and G.O.Ms.No.112 dated 7.8.2001 was issued wherein it was decided that 60% of the total seats would be allotted to the regular candidates and remaining 40% of the seats would be allotted to the affected students who have studied in de-recognised teacher training institutes. Since the aforesaid G.O. has got some bearing in deciding the present case, it is desirable to extract the relevant portions :-

 . . . 2. While admitting the students through Single Window System, the Govt. orders that the following norms should be followed:

i) . . .

ii) Excluding the above 60% of seats, the remaining 40% of seats will be allotted through Single Window System for affected students who had studied in de-recognised Teacher Training Institutes. If such affected candidates are not available for 40% of allotment, they would be filled by the regular candidates of the respective communities.

iii) For the 40% of seats allotted for the affected candidates, at the first level those who had written the second year public Examinations but were not issued the diplomas, and if such candidates are not available, the affected students those who had written the First year Public Examinations and were not issued the diploma mark sheets will be selected through communal reservations. If sufficient number of candidates are not available in selecting the students who had written the Second Year Examinations but were not issued diplomas through Communal reservations, the students of the respective communities who had written the first year Examinations but were not issued the marksheets will be selected. If sufficient number of candidates are not available for the above two categories, the students who had undergone First Year Teacher Training course may be considered.

iv) In 40% of seats allotted for affected students in the sections of minority languages, if such applications are not available for the above,

chances may be given to affected students who had not completed First Year Teacher Training Course. However the details of such students who had undergone short term refresher Course in Government Higher Secondary Schools allotted for them will be checked with the School list obtained. Even then if sufficient number of applications are not received, those seats will be filled up from the respective communal candidates of regular candidates. Only those who had studied in de-recognised Teacher Training Institutes alone are eligible.

v) There will be separate applications for regular students and affected students.

vi) The genuinity of the affected students who had written the examinations will be verified with TMR maintained by the Director of Govt. Examinations. The candidates who had undergone short term refresher course will be verified with the list sent by the Headmasters of the Govt. Higher Secondary Schools in which such programme was conducted.
. . .

4. Soon thereafter, G.O.Ms.No.136 dated 7.9.2001 was issued creating additional seats in the District Teachers Training Institutes and Government Teachers Training Institutes. The relevant portion is to the following effect:-

 . . . The plight of the affected 28366 students of the derecognised private teachers training institutes consequent on the judgments of the High Court of Judicature, Chennai, and the Supreme Court was duly examined and considered earlier. By revising 40% of seats in the District Teachers Training Institute and Government Teachers Training Institutes for such of those affected students, 2391 students alone have so far been admitted. It will take about 20 years time to give such training as aforesaid to all the remaining students. Keeping this in view and in the interest of such kind of affected students, it is proposed to create additional seats in District Institutes for Teacher Education and Training and Government Teachers Training Institutes and admit all the qualified affected students relaxing the maximum age limit, for regular two years training in such institutes and the Government after taking such decision issue orders as follows :-

(i) A Regular two years training will be given to the affected students in the following DIETS and Government TTIS as mentioned against each Institute in 2001-2002 by creating 10729 additional seats excluding 1048 seats i.e.40% of seats already admitted in accordance with the discussion in the National Council for Teachers Education Meeting, held on 29.08.2001.

The Principals of the concerned Institutes shall apply in the prescribed form to the National Council for Teacher Education Committee for necessary permission for creation of the above additional seats.

(ii) Relaxation of maximum age limit for admission to the training will be granted to the affected students. As for the educational qualification for admission to the teachers training, the existing educational

qualification (i.e., a pass in +2 examination for SC and ST students and 50% of the total marks in +2 examination for other community students) will be followed. . . .

5. In the background of the above admitted developments, the petitioners and others claiming to be the students of Royal Teacher Training Institute filed WP.No.19757 of 2001 to get the benefit of G.O.Ms. No.136 dated 7.9.2001 as they had not been permitted to attend the counselling for admission in DTE course in District Institute of Educational and Training. By interim order dated 17.10.2001, 72 applicants in the said writ petition were permitted to attend the counselling subject to the result of the writ petition. However, due to want of proper communication, only present 36 petitioners were able to attend the counselling on 23.7.2002.
6. Subsequently, the writ petition was disposed of with the following observation :-

 . . . Without going into the merits and as the 36 Petitioners have already attended the counselling, the respondents are directed to declare the result of the counselling conducted on 23.7.2002, if according to the respondents, the 36 petitioners are eligible, and if they are qualified in all respects as per the Government Order, on merits the respondents may declare the result of the counselling. This Court is not expressing any opinion in respect of the merits of the contentions or the claim of the 36 writ Petitioners, who attended the counselling. the result of the counselling conducted on 23.7.2002 shall be declared within two weeks from today. ..

7. Pursuant to the aforesaid direction, the order dated 26.12.2002, which is impugned in the present writ petition, was issued rejecting the prayer of the petitioner for being admitted on the ground that the petitioners had not written second or first year examinations nor they had undergone the short-term refresher course and their names were not found in TMR.

8. It is the contention of the petitioners that Royal Teachers Training Institute, where they have undertaken their studies, was given temporary recognition only in 1992 with retrospective effect from 14 .06.1989 as a result of which none of the students had appeared at the examination and similarly had no occasion to undergone short-term refresher course. It has been submitted that in order to eligible for undergoing present two years training programme, there is no requirement that a person must have undergone short-term refresher course and the application of the petitioners had been rejected on erroneous and unsustainable grounds.

9. A counter affidavit has been filed on behalf of the respondents wherein after narrating various facts and developments, which have already been noticed above, it had been stated that since the petitioners had not appeared at the examination nor had undergone the refresher course, they were found ineligible. It is stated that
 . . . out of the 36 petitioners 21 candidates studied in the

Institute during 1989-91 and 15 candidates during 1990-92. They have completed the two year course and have to appear for the examination. But they have not written their examination since the institution was not recognised during that period. According to the selection procedure of the affected students, selection was made based on the marks obtained in the +2 examination from among the candidates who have written the second year Diploma in Teacher Education Examination. Since the petitioners have not written their II year of (or) I year examination they were not considered for selection.

It has been further stated that

. . . It is submitted that the criteria that affected candidates must have written their 1st year examination or 2nd year examination or must have undergone the refresher course is to ascertain that they have been really affected after being enrolled in these derecognised institutes. If we do not insist on these three criteria which are checked with Government records and grant admission based merely on the course certificate issued by the de-recognised Teacher Training Institutes then any number of course certificates to any number of candidates will open a flood gate that will throw the system to the wind. Candidates with low marks and over age, who cannot get admission into the regular District Institutes of Education and Training and Teacher Training Institutes, which is based on merit under Single

Window System, will manage to get any number of course certificates from such de-recognised institutions under this cover.
(Emphasis added)

10. The relevant provisions contained in G.O.Ms.No.112 have already been extracted. A careful and combined perusal of paragraphs 2(ii), (iii) and (iv) and (vi) would make it clear that 40% of the seats were reserved for the affected students who have studied in derecognised teacher training institutes, which is evident from paragraph 2(ii). Under paragraph 2(iii), it is evident that the Government wanted to give precedence to the students who had written second year public examinations, but were not issued the diplomas and if sufficient number of candidates are not available, the students who had written first year examination, but were not issued marksheets will be selected. If sufficient number of candidates are not available for the above two categories, the students who have undergone first year teacher training course may be considered. Under 2(iv), if such applications are not available for the above, chances may be given to the students who have not completed first year teacher training course. There is no basic requirement that a student has to undergo short term refresher course. Reference to the students undergoing short term refresher course is with a view to ascertain and to identify as to whether such students had completed the two years course or had studied first year course, because the intention was to help the students who had studied in those institutes subsequently de-recognised. Preference which was to be given was confined to the students who had appeared at the second year final examination or at the first year examination as the case may be.

11. As already noticed, subsequently G.O.Ms.No.136 dated 7.9.2001 was issued creating more seats for the affected students. The said G.O. is obviously to be read along with G.O.Ms.No.112 dated 7.8.2001. From paragraph 2(iii) of G.O.Ms.No.112, it is evident that if the candidates, who had appeared in the second year examination or the first year examination, as the case may be, were not available, the students who had undergone the first year teacher training course may be considered. This latter category would obviously include the students who had also completed the second year, as obviously then they could have done so only after having completed first year teacher training course. In other words, first preference was to be given to those students who had appeared in the second year examination and thereafter preference would be given to those who had appeared in the first year examination and after giving preference to the above categories, other seats would be filled up from among the students who had undergone first year teacher training course. In order to identify the students, reference was made to verification with TMR maintained by the Director or with reference to the list sent by the Headmasters relating to the refresher course. But, it cannot be held that the person who had not undergone the refresher course is not eligible to take the benefit of the subsequent liberalised policy of the Government.

12. From various Government Orders it is evident that it is the intention of the Government to help the unfortunate students who had undergone the training in such Institutes which were subsequently derecognised. It is of course true that while considering the eligibility, the authorities are obviously to be satisfied about the genuineness of the claim made by a particular student regarding his undergoing study in a particular institute which had been subsequently derecognised. That would always depend upon the facts and circumstances of a particular case.

13. In the present case, even though some doubts have been expressed at the time of hearing, in the impugned order no such doubt had been indicated and the only ground of rejection appears to be the fact that the applicant had not appeared at the examination and had not undergone the short-term course. If a student is otherwise able to establish that he has undergone the training course, he is equally eligible to avail the benefit even though he has not undergone the shortterm refresher course. One cannot lost sight of the fact that in the impugned order no doubt has been expressed regarding the present petitioners having completed the training. Moreover, in paragraph 9 of the counter affidavit, it has been categorically stated by the respondents that

 . . . Out of the 36 petitioners 21 candidates studied in the Institute during 1989-91 and 15 candidates during 1990-92. They have completed the two year course and have to appear for the examination. But they have not written their examination since the institution was not recognised during that period. . . .

14. In view of the aforesaid statement in the counter affidavit, there is no doubt that the present petitioners were genuine students, who had completed the course, but they were not appear at the examination and thereafter the temporary recognition stood withdrawn by virtue

of the decision of the High Court.

15. For the aforesaid reasons, I quash the impugned order dated 26.12.2002 and direct that the petitioners should be given the benefit of G.O.Ms.No.112. If the admission to the course for the year 2002-20 03 is not over, benefit may be extended to them, otherwise benefit maybe given in the current year.

Index : Yes
Internet : Yes

dpk/ksr

To

1. The State of Tamil Nadu,
rep. by its Secretary to Govt.,
Education Department,
Fort St. George, Chennai 9.

2. The Director,
Teacher Education Research and
Training, College Road,
Chennai 6.